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THE PROBLEM OF THE FAR EAST AT THE CLOSE OF THE WAR

Tentative Suggestions for a Constructive International Far Eastern Policy

*A Report prepared by a Member of the Final Settlements Committee
and approved by the Committee, November 20, 1918.*

I. The Problem

AT the close of the world war a settlement should be reached providing for the universal application of the principles of justice to all alike.

A fundamental practicable solution needs to be found and agreed upon by the nations, including those of the Far East. No patchwork proposals will do. No continuance of the old policies and spirit with perhaps slight adjustments here and there will fulfill the requirements.

Unless provision is made by the nations voluntarily to grant adequate opportunity for the expanding life of China, this people will constitute an increasingly grave problem for the whole world. China should not be left to be in the future as she has been in the past, the field for rivalries between strong and enterprising nations, each planning exclusively for its own special interests.

Some well thought-out policy is needed that will deal with the whole complex problem. It should not only state with utmost clearness the general principles involved but also show how they would work out in concrete details.

To be somewhat specific, China should be gradually opened for development by foreign capital and skill, yet she should be protected from foreign domination and from harmful exploitation. She should be given fair play and opportunity to become a great self-governing democratic nation—

one of the coordinate nations of the world. She should be protected from the blunders and misdeeds of her own inexperienced, and too often, unprincipled officials. China must be saved from becoming either a chaotic or a militarized nation, a menace to the whole world.

Every nation should be given a fair opportunity to share in the prosperity that may be secured by cooperating in the economic and industrial development of a well-ordered, progressive China. To secure these ends of such transcendent importance to the welfare of the whole world, the great and strong nations of the whole world should agree together to adopt a new policy and a new method in their dealings with China.

The leaders of the West should proceed with insight into the problems and with foresight as to possibilities. Mankind must be saved from a tragedy of a world divided into two rival groups, the East and the West, the Yellow and the White. It is not a necessary and inevitable division although selfishness, greed and stupidity can easily make it so. The key of the future, so far as outside nations are concerned, is for the present at least in the hands of Japan, Great Britain and the United States. The intimate relations of France and especially of Russia to China should not be ignored.

The dangers in the Far Eastern situation lie almost exclusively in the political and commercial rivalries of the various nations interested in China. By organizing the present political and commercial competition of the various outside nations under a form of international control (China being unable to control this competition) that country can be safeguarded and protected from further aggression, permitting her to develop her republic along her own lines. International control will at the same time protect the interests of all foreign nations that have relations with China. Such control will as a result increase the development of the national resources of China to her own advantage as well as to that of each foreign country having interests there.

The proposals made in the following memorandum amount in fact to little more than the coordination and regulation of the foreign irregular operations now active in China. The present aggressors upon China's sovereignty are rival, competitive and in some cases even hostile to each other as well as to China, and are for that reason dangerous. The proposed coordination and regulation under international sanctions would accomplish two desirable objects: the protection of China and the elimination of dangerous rivalry. Such coordination would secure substantial diminution of encroachment.

The unification of the various foreign military and naval establishments (American, British, French, Italian, Japanese, etc.) that is proposed in this memorandum; the unification of the various foreign police services (existing in the Treaty Ports and in Peking); the unification of the foreign

supervisions over government offices (such as over the Salt Gabelle, the Maritime Customs, the Post Office, and over departments of some of the state railways); the absorption of the financial consortium now controlling large foreign loans to China—such unifications, absorptions and coordinations would tend to prevent further aggressions, from which China is unable at present to protect herself.

The unification of existing treaties and pledges regarding the preservation of China's integrity and independence is also highly desirable. Such unification would safeguard the international situation. The Anglo-Japanese Treaty, the Franco-Japanese Treaty and the Lansing-Ishii Agreement, all pledge their respective countries to the maintenance or at least (in the case of the last) to the preservation of China's integrity and independence. But they are separate pledges, and as such have not the value of a unified general international agreement. To a general agreement China herself might be made a competent party. Russia, when and if she recovers power, might also become a party. By such a general treaty all nations having important interests in the North Pacific will have been brought into agreement over the most menacing problem existing in that political sphere.

The proposals of this memorandum seek along these lines to embody in concrete form the general principles laid down by President Wilson in his memorable utterances of Jan. 8, Feb. 11, July 4, and September 27, 1918. Among those principles special attention may be called to the following:

No private international understandings;

Equality of trade conditions and opportunities among all the nations;

The right of each people to self-determination and self-government;

Impartial justice without discrimination and without favorites;

The priority of the common interest of all over that of any single nation or group;

The reign of law in each land based upon the consent of the governed.

II. A Tentative Statement in General Terms of a Constructive International Far Eastern Policy

1. The underlying and controlling principle of the new International Far Eastern Policy should be the priority of the rights and interests of each one of the Far Eastern peoples in the integrity and unhampered development of its own state and nation.

2. In order to secure the cooperative, constructive and helpful activities of all the principal nations in solving the problem of China, it is desirable that that country, Japan, Great Britain, France and the United States should establish at the earliest practicable date an International Far Eastern Commission. These nations might well invite to cooperation in such a Commission, at a later date, representatives from other countries not included in the earlier steps. Any one of the above-mentioned govern-

ments should be regarded as competent to take the initiative in proposing such a Commission.

In case some kind of a League of Nations should be organized, it would undoubtedly be desirable that the proposed International Far Eastern Commission should either be established by the League or be brought into suitable organic relations with it.

3. It is hoped that one of the ultimate purposes of the Commission might be the restoration to China of all Chinese territories and intrinsic rights, some of which are now impaired by interferences or control of foreign governments. Such restoration could not be made until China herself had fulfilled certain essential and specified conditions, such for instance as the establishment of a stable and truly representative government, the codification of civil and especially of criminal law on modern principles, the development of a system of courts provided with lawyers and judges able to administer justice with probity and safety to all the parties concerned, and the inauguration and practice of a system of equitable taxation.

4. As soon as practicable after the Commission has been formed, it would seem desirable that all treaties granting special or monopolistic privileges in China proper should be submitted to it for its full information and if needful for advice in regard to such adjustment as shall be fair and equitable to all the parties concerned.

5. The ideal would also require that all the nations holding territories or spheres of influence in areas formerly a part of China proper should mutually agree to restore such territories to China at some suitable time and under appropriate conditions, whether those territories may have been acquired by so-called leases and concessions or by military conquest. The administrative control of such territories might well be intrusted temporarily to the care of the proposed Far Eastern Commission with a view to their ultimate and complete restoration. Such action would of course involve the withdrawal of all foreign troops and other forms of separate foreign control. Such withdrawal, however, should not take place until the proposed International Far Eastern Commission is ready to substitute for them its own International Constabulary.

6. The proposed Commission might control or absorb the Consortium already organized, and become the agency for providing China with such foreign capital as may be needed for her best industrial and economic development on terms safe and profitable for China and also for foreign investors.

III. Tentative Suggestions as to the Constitution, Functions and Powers of an International Far Eastern Commission

On the basis of the foregoing sketch it is feasible to draft a tentative plan for the constitution, functions and powers of an International Far Eastern Commission. Whether or not such a Commission would be prac-

ticable, acceptable and really valuable would depend on the skill with which the details of the plan were worked out.

A special joint Committee of experts in Far Eastern affairs might be charged with the duty of preparing a plan for the operation of an International Far Eastern Commission. For the purposes of study and discussion suggestions for such a plan are here given.

A.—Outline of a Suggested Constitution of the Far Eastern Commission

1. The Commission might consist of (2) Chinese, (1) Japanese, (1) British, (1) American, (1) French and representation on the part of other countries having important trade relations with China. The members of this Commission might be chosen (1) by the League of Nations, if it is established, (2) by the Versailles Council, or (3) by direct appointment of the governments concerned.

2. The Commissioners might serve for (say) five years from the date of their appointment. The compensations of the Commissioners would be paid by the respective governments which they represent.

B.—The Functions and Powers of the Proposed International Far Eastern Commission

1. The proposed Commission might create an *International Constabulary*, to consist, so far as practicable, of Chinese, not only as privates but also as officers, all wearing the uniform and insignia of their international functions, this Constabulary to replace, as soon as practicable, all the military and police forces of various nations in the territories and compounds now held by them severally and jointly.

2. Prompt consideration should be given to China's financial problem. The Commission might supervise international financial activities exceeding (say) \$100,000.00 between the Chinese Government or private Chinese groups on the one hand, and the Governments or corporations of other lands on the other. Contracts, loans, leases and other financial arrangements exceeding (say) \$100,000.00 between Chinese and foreigners (governmental or private) might be made subject to the approval of the Commission. Concerning Chinese problems of taxation and revenue the Commission might formulate policies and recommendations which could be used as bases for diplomatic discussion and possible agreement between China and the other Governments represented upon the Commission.

3. All loans, leases and contracts that already have been made in the past, might be examined by the Commission. The Commission might be empowered to advise the recasting of the terms of such loans, leases and contracts as justice to both sides may require, providing, on the one hand, for a fair return to foreign investors, and on the other for the final ownership by China herself (through methods of amortization) of the public utilities and enterprises that have been developed by foreign enterprise and capital.

4. All foreign corporations undertaking business in China, having a capital of (say) \$1,000,000.00, and all Chinese corporations or business enterprises whether wholly or only partly Chinese, having a capital of (say) \$100,000.00, seeking funds from foreign investors, might be required to incorporate under appropriate laws approved by the Commission and enacted by the Chinese Government.

5. Each of the governments maintaining diplomatic relations with China might be asked to make a statement to the Commission of its annual expenses for the preceding five years for the maintenance of military or police forces in China, for the administration of justice, and for any other public service which is to be taken over by the Commission. From the time that the Commission is prepared to assume these various duties each government might be asked to make annual payments to the Commission of a sum equal to the average of such expenses for the preceding five years. These receipts could be credited to the general administrative fund of the Commission.

6. The Chinese Government might agree to contract foreign loans, make leases and give grants, only upon terms approved by the Commission. The Commission on the other hand, while free to make suggestions and recommendations to the Chinese Government, should not have the independent right to authorize loans, leases, contracts or enter upon any financial or other obligation on behalf of the Chinese Government.

7. The proposed Commission might be empowered to provide for adequate supervision of the expenditure of all moneys paid over under its sanctions by foreign investors to the Chinese Government, a procedure which is now one of the functions of the Consortium.

8. The proposed Commission might provide that no nation or national group that secures leases or contracts for the building and running of railroads, opening of mines, establishment of steamship lines or any other enterprises of a nature constituting natural monopolies, shall grant preferential rates or rebates or service for the benefit of its own nationals.

9. In regard to the administration of justice, in general, the present extra-territorial arrangements might well be continued until China shall have qualified herself to administer justice according to modern principles. To replace, however, the present confusing system of consular courts established by the various nations with their various laws and procedure, the proposed Commission, in consultation with the Chinese Government, as soon as practicable might well establish a system of International Courts. All cases involving foreigners might be tried in these Courts.

10. As soon as the Chinese Government shall have established throughout the land a judicial system and shall have trained expert, responsible, and trustworthy judges for the administration of justice, complete judicial autonomy might be restored to China.

11. It might become the policy of the Commission to provide in all its departments for the employment and promotion of Chinese, and to train a staff of Chinese experts who might become eventually competent to perform all duties under the Commission.

12. When a sufficient body of expert Chinese officials shall have been developed and the general Government of China shall have become well established, and the other conditions specified have been met by the Chinese Government, the proposed Commission might recommend to the cooperating governments the discharge of the Commission.

13. The Chinese Government might have the right at any time, under appropriate limitations, to appeal to the cooperating governments in regard to any action of the Commission which it deems unjust or unwise.

14. Ordinary sessions of the proposed Commission might well be open to the public. Every resolution and action dealing with China's international relations, authorizing loans, leases, contracts, etc., would of course be published in full in the official Bulletin of the Commission.

IV. Advantages of the Policy Here Proposed

The advantages of the policy and program presented in the foregoing pages are many and great. They are in truth of vital importance to China, to Japan and also to all the nations.

To CHINA. By these means and probably by them alone can China hope to secure complete recovery of her sovereignty, of her territories and of her judicial and tariff autonomy. Protected from danger of foreign invasions or sinister peaceful penetration, fear would be removed and the moral and practical energies of the nation could be devoted to the establishment of a stable government and to the solution of her economic, industrial and other problems. China would thus secure safety and justice without being compelled to arm herself heavily as every modern State has been compelled to do. Her vast resources could then be expended wholly upon productive enterprises rather than upon armaments.

To JAPAN. All the justifiable objectives that Japan has been struggling for in the Far East would be guaranteed to her by the joint action of the nations. No longer would she need to maintain her expensive army and navy to assure safety, justice and economic opportunity. Stability and orderliness of government in China would give to Japan opportunity for that large trade with China which her geographical proximity, her knowledge of the Chinese language, and her industrial efficiency make certain and which her own industrial and economic needs make necessary. She would have unhampered access to raw materials in China and also to the enormous markets of China for her industrial products. With China developing securely as an industrial and commercial nation having no need of nor tendencies toward militarization, a profound apprehension would be removed from the mind of every thoughtful Japanese. Japan would, more-

over, secure courtesy of treatment and equality of status which are essential to the maintenance of good-will and friendship between her and the nations of the West.

TO OTHER NATIONS. The policy and program proposed above would prevent the dangerous competition in China of powerful rival nations. Each would have its fair opportunity and would not fear unfair competition. The danger of another world war, because of rivalry for the possession of China and her boundless wealth, would be averted. All the nations would share in the prosperity of a wholesomely developing, peaceful and prosperous China.

PRESENT AMERICAN, ENGLISH AND JAPANESE AGREEMENTS

I. The Anglo-Japanese Treaty

The dominant diplomatic facts in the Far Eastern problem to-day are the Anglo-Japanese treaty of alliance and the Lansing-Ishii agreement. The texts of these documents are reproduced here with a little illustrative material.

It should be remembered that these two diplomatic facts are dissimilar in nature. The Anglo-Japanese agreement is a formal treaty with a definite term of existence. The other document is not a treaty, but embodies an informal understanding, based upon an exchange of notes not submitted to the approval of our Senate. It is practically revocable at will by either party at any time.

The first formal Anglo-Japanese alliance was made in 1902 and was renewed in 1905 at the time when Kaiser William was framing the secret treaty of Bjorke with Czar Nicholas, the treaty which Count Witte forced the Czar to repudiate. The Anglo-Japanese treaty of 1905 was so worded that it might have been inconsistent with the requirements of the general arbitration treaty between England and the United States, which was the subject of negotiations in 1911. In July of that year, therefore, the Anglo-Japanese treaty was again revised, and renewed for a period of ten years. The danger above referred to was warded off by Article IV.

AGREEMENT

Between the United Kingdom and Japan Respecting Rights and Interests in Eastern Asia and India, Signed at London, July 13, 1911.*

Preamble

The Government of Great Britain and the Government of Japan, having in view the important changes which have taken place in the

* British and Foreign State Papers, Vol. CIV, pp. 173-174. American Journal of International Law, Supplement V, pp. 276-278.

situation since the conclusion of the Anglo-Japanese agreement of the 12th August, 1905, and believing that a revision of that agreement responding to such changes would contribute to general stability and repose, have agreed upon the following stipulations to replace the agreement above mentioned, such stipulations having the same object as the said agreement, namely:

(a) The consolidation and maintenance of the general peace in the regions of Eastern Asia and of India;

(b) The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China.

(c) The maintenance of the territorial rights of the High Contracting Parties in the regions of Eastern Asia and of India, and the defense of their special interests in the said regions:

Article I.—It is agreed that whenever, in the opinion of either Great Britain or Japan, any of the rights and interests referred to in the preamble of this Agreement are in jeopardy, the two Governments will communicate with each other fully and frankly, and will consider in common the measures which should be taken to safeguard those menaced rights or interests.

Article II.—If by reason of unprovoked attack or aggressive action, wherever arising, on the part of any Power or Powers, either High Contracting Party should be involved in war in defense of its territorial rights or special interests mentioned in the preamble of this Agreement, the other High Contracting Party will at once come to the assistance of its Ally, and will conduct the war in common, and make peace in mutual agreement with it.

Article III.—The High Contracting Parties agree that neither of them will, without consulting the other, enter into separate agreements with another Power to the prejudice of the objects described in the preamble of the Agreement.

Article IV.—Should either High Contracting Party conclude a treaty of general arbitration with a third Power, it is agreed that nothing in this agreement shall entail upon such Contracting Party an obligation to go to war with the Power with whom such treaty of arbitration is in force.

Article V.—The conditions under which armed assistance shall be afforded by either Power to the other in the circumstances mentioned in the present Agreement, and the means by which such assistance is to be made available, will be arranged by the Naval and Military authorities of the High Contracting Parties, who will from time to

time consult one another fully and freely upon all questions of mutual interest.

Article VI.—The present Agreement shall come into effect immediately after the date of its signature, and remain in force for ten years from that date. In case neither of the High Contracting Parties should have notified, twelve months before the expiration of the said ten years, the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either of the High Contracting Parties shall have denounced it. But if, when the date fixed for its expiration arrives, either ally is actually engaged in war, the alliance shall, *ipso facto*, continue until peace is concluded.”

Signed by Sir Edward Grey and Baron Kato.

II. The Present American-Japanese Understanding

The latest phase of the relations between our Government and the Governments of China and Japan began with a note sent by our Government to China, June 7, 1917. The note was due to the regret with which our Government contemplated the dissensions between the Northern and Southern leaders of China. Great Britain, France and Japan were approached by our State Department with the suggestion that each should associate itself with us in the dispatch of an identic note to the Chinese Government.

Those nations declined so to act, and therefore the United States alone addressed China as follows:

“The Government of the United States learns with the most profound regret of the dissension in China and desires to express the most sincere desire that tranquillity and political coordination may be forthwith re-established.

The entry of China into war with Germany or the continuance of the *status quo* of her relations with that Government are matters of secondary consideration. The principal necessity for China is to resume and continue her political entity, to proceed along the road of national development on which she has made such marked progress.

With the form of Government in China or the personnel which administers that Government the United States has an interest only in so far as its friendship impels it to be of service to China, but in the maintenance by China of one central, united and alone responsible Government, the United States is deeply interested and now expresses the very sincere hope that China, in her own interest and in that of the world, will immediately set aside her factional political disputes and that all parties and persons will work for the re-establishment of a coordinate Government and the assumption of that place among the

Powers of the world to which China is so justly entitled, but the full attainment of which is impossible in the midst of internal discord.”*

The result of this communication was an effort on the part of the Japanese Government to secure an amicable understanding and agreement with the United States. Viscount Ishii was sent as a special ambassador to Washington and notes declaring and confirming a new agreement were exchanged by him and Secretary Lansing, November 2, 1917. The text of the note signed by the Secretary and addressed to Viscount Ishii follows:

“Excellency: I have the honor to communicate herein my understanding of the agreement reached by us in our recent conversations touching the questions of mutual interest to our Governments relating to the republic of China.

In order to silence mischievous reports that have from time to time been circulated, it is believed by us that a public announcement once more of the desires and intentions shared by our two Governments with regard to China is advisable.

The Governments of the United States and Japan recognize that territorial propinquity creates special relations between countries, and consequently the Government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous.

The territorial sovereignty of China nevertheless remains unimpaired, and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that, while geographical position gives Japan such special interests, they have no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in treaties with other Powers.

The Governments of the United States and Japan deny that they have any purpose to infringe in any way upon the independence or territorial integrity of China, and they declare, furthermore, that they always adhere to the principle of the so-called ‘open door,’ or equal opportunity for commerce and industry in China.

Moreover, they mutually declare that they are opposed to the acquisition by any government of any special rights or privileges that would affect the independence or territorial integrity of China or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China.

* Cf. text in World Court Magazine, August, 1917, page 368.

I shall be glad to have your Excellency confirm this understanding of this agreement reached by us.

Accept, Excellency, the renewed assurance of my highest consideration.

ROBERT LANSING."

Viscount Ishii, replying at once, stated:

"Sir: I have the honor to acknowledge the receipt of your note of to-day, communicating to me your understanding of the agreement reached by us in our recent conversations touching the questions of mutual interest to our governments relating to the Republic of China.

I am happy to be able to confirm to you, under authorization of my government, the understanding in question."

He then repeated *verbatim* Secretary Lansing's outline of the understanding.

Following the publication of this agreement, the Chinese legation at Washington sent to our State Department, on November 12, 1917, the following communication:

"The Government of the United States and the Government of Japan have recently, in order to silence mischievous reports, effected an exchange of notes at Washington concerning their desires and intentions with regard to China. Copies of the said notes have been communicated to the Chinese Government by the Japanese Minister at Peking; and the Chinese Government, in order to avoid misunderstanding, hastens to make the following declaration so as to make known the views of the Government. The principle adopted by the Chinese Government towards the friendly nations has always been one of justice and equality; and consequently the rights enjoyed by the friendly nations derived from the treaties have been consistently respected, and so even with the special relations between countries created by the fact of territorial contiguity, it is only in so far as they have already been provided for in her existing treaties. Hereafter the Chinese Government will still adhere to the principle hitherto adopted, and hereby it is again declared that the Chinese Government will not allow herself to be bound by any agreement entered into by other nations."*

* Cf. text in World Court Magazine, December, 1917, page 599.





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